

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Esther Carpenter	Team: Team # 1	CCRB Case #: 200804416	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 03/24/2008 9:30 PM	Location of Incident: § 87(2)(b)	Precinct: 73	18 Mo. SOL 9/24/2009	EO SOL 9/24/2009	
Date/Time CV Reported Thu, 03/27/2008 2:56 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Thu, 03/27/2008 2:56 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. POM Stephen Sheppard	13816	945001	073 PCT
2. Officers			073 PCT
3. An officer			

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Wojciech Lipinski	17416	943490	067 PCT
2. LT William Buchanan	00000	924993	PSA 2
3. POM Robert Beierle	31963	932313	073 PCT

Officer(s)	Allegation	Investigator Recommendation
A. POM Stephen Sheppard	Abuse: Officer Stephen Sheppard questioned § 87(2)(b)	§ 87(2)(b)
B. POM Stephen Sheppard	Force: Officer Stephen Sheppard used physical force against § 87(2)(b)	§ 87(2)(b)
C. Officers	Force: Officers used physical force against § 87(2)(b)	§ 87(2)(b)
D. An officer	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)
E. An officer	Discourtesy: An officer spoke obscenely and/or rudely to § 87(2)(b)	§ 87(2)(b)

### Synopsis

On March 24, 2008, at approximately 9:30 PM, § 87(2)(b) was with his friends, “§ 87(2)(b) and § 87(2)(b) in the § 87(2)(b) a Trespass Affidavit Program building located on § 87(2)(b) in Brooklyn. § 87(2)(b) entered his apartment, within the § 87(2)(b) and § 87(2)(b) and § 87(2)(b) remained in the courtyard. Shortly after § 87(2)(b) entered his apartment, Officer Stephen Sheppard, of the 73rd Precinct, approached § 87(2)(b) and asked what he was doing there [Allegation A]. § 87(2)(b) responded that they were waiting for a friend. Officer Sheppard continued to ask additional questions concerning what their reason was for being in the area.

§ 87(2)(b) stated that he began to walk away and Officer Sheppard followed him. Officer Sheppard stated that he wanted to speak with § 87(2)(b). § 87(2)(b) began to cross § 87(2)(b). As he was crossing, he saw a car approaching and began to jog across the street. Officer Sheppard ran after him and when he caught up to him, Officer Sheppard placed one hand on the back of § 87(2)(b)'s neck and pushed him into a wall. With his other hand, he grabbed § 87(2)(b)'s arm and pulled it behind his back to place his wrist in a handcuff [Allegation B]. Officer Sheppard then pushed § 87(2)(b) to the ground, and cuffed his other wrist. § 87(2)(b) stated that multiple officers then responded to the location and began to punch and kick him while he was handcuffed on the ground [Allegation C]. § 87(2)(b) stated that he then was lifted off the ground and escorted to the prisoner van by an officer. The officer took § 87(2)(b)'s head and hit it against the side of the police van [Allegation D]. § 87(2)(b) asked the officer why he hit his head and the officer responded, “Shut the fuck up,” and hit § 87(2)(b)'s head again [Allegation E and Allegation D continued].

§ 87(2)(g)

[REDACTED]

### Summary of Complaint

On March 27, 2008, § 87(2)(b) called the CCRB to file this complaint [Encl. 3 a-b]. He was interviewed at the CCRB on April 15, 2008, at 4:20 PM [Encl. 4 a-g]. He is a § 87(2)(b) black male and currently lives at § 87(2)(b) in Brooklyn. He provided the following statement to the CCRB:

On March 24, 2008, at approximately 9:30 PM, § 87(2)(b) was with his friends, “§ 87(2)(b) and § 87(2)(b) (aka “§ 87(2)(b) in the vicinity of § 87(2)(b) in Brooklyn. § 87(2)(b) was unable to provide contact information for § 87(2)(b). They were in the courtyard of the § 87(2)(b) which was later identified as a part of the Trespass Affidavit Program. The courtyard is surrounded by three-story apartment buildings. This courtyard is open to the street and there is no type of locked area through which one must enter.

§ 87(2)(b) stated that § 87(2)(b) had just walked into his apartment, located in the § 87(2)(b) when § 87(2)(b) saw an officer approaching. The officer was described as a white male with glasses, 5’7, brown hair, medium build. § 87(2)(b) identified this officer as Officer Stephen Sheppard of the 73rd Precinct from reading his name off of his nameplate on his uniform. § 87(2)(b) and § 87(2)(b) were

standing in the courtyard, waiting for § 87(2)(b). § 87(2)(b) then said to § 87(2)(b) “This time, we’re not going to run. We’re going to tell [Officer Sheppard] what we’re doing.”<sup>1</sup> Officer Sheppard approached § 87(2)(b) and asked him what he was doing and why he was there. § 87(2)(b) responded that he was waiting for his friend, § 87(2)(b). Officer Sheppard asked § 87(2)(b) where his friend lived and § 87(2)(b) answered. Officer Sheppard then asked if he could search § 87(2)(b) and § 87(2)(b) refused.

Officer Sheppard asked, “Where’s your friend at?” and § 87(2)(b) replied, “He’s in his house.” Officer Sheppard again asked what he was doing in the courtyard and § 87(2)(b) stated, “I’m waiting on my friend, § 87(2)(b).” § 87(2)(b) stated that both he and the officer were getting “tight,” meaning angry. After about two minutes speaking with the officer, § 87(2)(b) emerged from his apartment. Officer Sheppard then yelled at § 87(2)(b) “Well you’re still going to jail!” § 87(2)(b) replied, “Why am I still going to jail? You asked me why I was out here and my friend came out of the house.” § 87(2)(b) stated, “They were waiting on me.” § 87(2)(b) stated that Officer Sheppard was “so in his face,” which made him think the officer “was about to kick [his] ass.” When asked to elaborate, § 87(2)(b) stated that the officer was standing only a couple of inches away from him as they spoke. § 87(2)(b) said, “Yo, what are you talking about? You can’t just come up here and just bother us. I told you who I was waiting on.” § 87(2)(b) stated that § 87(2)(b) did not say anything this entire time.

§ 87(2)(b) then walked away from the courtyard, and the officer followed him. § 87(2)(b) stated that his friends stayed behind and he was headed towards his block, which is located one block away. § 87(2)(b) stated that the officer did not give any instructions or say anything to him as he walked away. Later in the interview, § 87(2)(b) stated that the officer said, “I want to talk to you,” as § 87(2)(b) was walking away.

As § 87(2)(b) was crossing § 87(2)(b) a civilian in a vehicle was approaching, so § 87(2)(b) jogged across the street to get out of the vehicle’s path. § 87(2)(b) surmised that the officer took his running as a sign that he “had something” and was trying to run away, because Officer Sheppard began to chase him. Officer Sheppard ran up behind him and placed one hand on the back of § 87(2)(b)’s neck and pushed him into a wall against which garbage cans are lined up, and with his other hand, he grabbed § 87(2)(b)’s arm and pulled it behind his back to place his wrist in a handcuff. Officer Sheppard then pushed § 87(2)(b) to the ground, where § 87(2)(b) hit his face on the pavement, and cuffed his other wrist. § 87(2)(b) did not complain of any injuries related to his head hitting the pavement. § 87(2)(b) was on his stomach on the ground and Officer Sheppard “sat down on § 87(2)(b).

As Officer Sheppard was sitting on § 87(2)(b) he went over his radio and § 87(2)(b) believed Officer Sheppard said, “Cop in trouble,” because in a matter of seconds, officers started “flying out of everywhere.” § 87(2)(b) stated that “a whole bunch” of officers arrived, some in vehicles and some on foot, but he was unable to provide an estimate of how many officers responded. § 87(2)(b) stated that Officer Sheppard had “everything under control” before he requested backup, and § 87(2)(b) denied saying anything or making any movements while he was lying on the floor. He also stated that Officer Sheppard did not say anything to him.

§ 87(2)(b) stated that, “when the cops came, they were kicking on [him] ... in [his] stomach and ribs.” He felt hands punching him and feet kicking him for about five minutes. He stated that he did not yell or use any profanity during this time. § 87(2)(b) stated that he did not sustain injuries that needed to be treated at a hospital, but there was redness on his stomach area and near the left side of his back. § 87(2)(b) said that he was lifted up and some officers were still kicking as he was being lifted. An officer, whom § 87(2)(b) could only describe as a black male, came over and said, “He’s in handcuffs, what are you all doing?” § 87(2)(b) was unable to identify this officer further or any of the other officers at the scene except a white male officer in plainclothes, with white hair, a green shirt, 40 years old, and chubby. § 87(2)(b) stated that he said to the chubby officer, “Yo, what are you all doing?” and the chubby officer placed his hand on the back of § 87(2)(b)’s head and hit it against the van. Then, § 87(2)(b) pulled his head back and turned it to face the chubby officer and said, “Why are you doing that?” Later in the interview, § 87(2)(b) stated that

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<sup>1</sup> § 87(2)(b) made this comment in reference to an incident he had with separate officers § 87(2)(b)

he said, "Why the fuck are you doing that?" The chubby officer then said, "Shut the fuck up," and banged § 87(2)(b)'s head against the van again.

§ 87(2)(b) was then placed in a van and was told by a person who he believed to be a sergeant that he had seven warrants. The officers had a male handcuffed in the backseat of the marked vehicle in which he was placed, and before they were driven to the stationhouse, the officers drove back to the unidentified male's block to drop his keys off to his wife. § 87(2)(b) stated that the unidentified male, described as "brown-skinned" with dreads, lived in the § 87(2)(b) on § 87(2)(b). § 87(2)(b) stated that the unidentified male said, "They threw me in here, and they came around the corner to whip your ass." § 87(2)(b) stated that the unidentified male was arrested § 87(2)(b).

§ 87(2)(b) stated that the officers arrested him § 87(2)(a) 160.50. § 87(2)(b) stated that when he was in Central Booking, an unidentified man in a suit came and told him he was released. § 87(2)(b) said, "What about the case?" and the man said, "You can't get trespassing on your own block. You're free to go."

§ 87(2)(b) stated that a girl who lives across the street from the incident location was outside and saw him get beat up. Her name is § 87(2)(b) and she is a heavysset girl. She said to the officers, "Why are you all doing that for?" § 87(2)(b)'s sister was not a witness, but spoke with an officer from the stationhouse who said § 87(2)(b) hit an officer in his stomach. § 87(2)(b) added that at one point during the incident, he said, "Why am I going to jail?" and Officer Sheppard responded, "Because I want you to go to jail."

### **Photo Array Viewing**

When presented with a photo array on April 8, 2009, § 87(2)(b) identified two male officers who he believed may have been the officer who hit his head against a police van. One of the photographs was a filler and the other photograph was Officer Robert Beierle of the 73rd Precinct. On the roll call, Officer Beierle was assigned to the burglary apprehension team from 5:30 PM until 2:05 AM.

## **Results of Investigation**

### **Attempts to Contact Civilian Witnesses**

On May 7, 2008, the undersigned performed field work in the vicinity of § 87(2)(b). The undersigned was unable to find witnesses, but spoke with § 87(2)(b) who is § 87(2)(b)'s sister. She provided her personal cell phone number, but did not have a phone number for § 87(2)(b). On May 22, 2008, the undersigned searched YellowPages.com and WhitePages.com to obtain a phone number for § 87(2)(b) apartment, but was met with negative results. On May 29, 2008, the undersigned received a Verizon subpoena that stated there was no working phone number for § 87(2)(b) apartment. On May 29, 2008, a Lexis Nexis search also provided no results for § 87(2)(b)'s phone number. On July 2, 2008, the undersigned called § 87(2)(b)'s phone number for § 87(2)(b). § 87(2)(b) answered and stated that § 87(2)(b) was unavailable, but she would inform him of the undersigned's call. On July 2, 2008, the undersigned mailed a final "please call" letter to § 87(2)(b). As of the date of this report, § 87(2)(b) had not made any attempt to contact the CCRB.

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

His address on his arrest report was in Springfield Gardens, NY. On June 27, 2008, the undersigned searched the Department of Motor Vehicles' website and found § 87(2)(b)'s apartment number. Later that day, the undersigned searched for a phone number for § 87(2)(b) in the Cole Directory, but it yielded no results. A Lexis Nexis search for § 87(2)(b) on June 27, 2008, provided a phone number and an address in Jamaica, NY, for § 87(2)(b). On July 2, 2008, the undersigned called § 87(2)(b) and left a message. Later that day, the undersigned mailed a first "please call" letter to § 87(2)(b). On August 13, 2008, the undersigned called § 87(2)(b) and left a message. On August 13, 2008, the undersigned mailed final "please call" letters to § 87(2)(b) at both his Springfield Gardens, NY, and Jamaica, NY, addresses. On August 20, 2008, and August 26, 2008, the undersigned called § 87(2)(b).

and left messages each time. As of the date of this report, § 87(2)(b) had not made any attempt to contact the CCRB.

On January 14, 2009, the undersigned called § 87(2)(b) and he stated that he would be able to recognize the officer who hit his head against the police van from a photograph. § 87(2)(b) added that he would not be able to identify the officers who kicked and punched him while he was on the ground because he was lying face down. On January 26, 2009, the undersigned called § 87(2)(b) to schedule a photo viewing and there was no answer or answering machine. On January 28, 2009, the undersigned called § 87(2)(b) and scheduled an appointment with him for February 2, 2009, for which he failed to appear. On February 2, 2009, the undersigned mailed a “missed appointment” letter to § 87(2)(b). On February 4, 2009, the undersigned called § 87(2)(b) and scheduled another appointment with him for February 9, 2009. On February 6, 2009, § 87(2)(b)'s sister called and stated that § 87(2)(b) was sick and was unable to go to the scheduled appointment on February 9, 2009. On February 12, 2009, the undersigned called § 87(2)(b) and there was no answer or answering machine. On February 13, 2009, the undersigned called § 87(2)(b) and an unidentified female answered the phone. She stated that § 87(2)(b) was not available, but she would inform him of the undersigned's call. On February 19, 2009, the undersigned called § 87(2)(b) and there was no answer or answering machine. As of the date of this report, § 87(2)(b) had not made any attempt to contact the CCRB.

## **Officer Statements**

### ***Officer Stephen Sheppard***

§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

§ 87(2)(b)'s arrest report was sealed.

### **CCRB Statement**

*Officer Sheppard is a 5'9" tall white male weighing 180 pounds with brown hair and blue eyes. Officer Stephen Sheppard was interviewed at the CCRB on June 9, 2008 at 9:18 AM [Encl. 5 f-h]. On March 24, 2008, Officer Sheppard was in uniform and assigned to Post 6. He was working alone and worked from 7:30 PM until 4:05 AM.*

On March 24, 2008, at approximately 10:00 PM, Officer Sheppard was walking past the § 87(2)(b) in the vicinity of § 87(2)(b) in Brooklyn. He observed two men, one of whom he identified as § 87(2)(b) inside the courtyard of the § 87(2)(b) and decided to approach them. Officer Sheppard noted that the § 87(2)(b) participates in the Federal Trespass Affidavit Program (FTAP) and this specific area is known for drugs and robberies. Next to the entrances of the courtyard, there are signs that indicate that one is “not allowed to trespass, use drugs, loiter, etc.” Officer Sheppard stated that in an FTAP building, anyone who lives in the building must present identification if approached by the police.

Officer Sheppard approached § 87(2)(b) and the other individual, later identified as “§ 87(2)(b)” in the courtyard because they “just looked like they were hanging out and they didn't really have any reason to be there.” Officer Sheppard did not provide any further reason for approaching § 87(2)(b) and § 87(2)(b). When asked if the individuals had been doing anything else that motivated his approach, Officer Sheppard replied, “They were just standing there, hanging out. It was late at night, it was a cold night. It's a poorly lit area, and that's why it's very prone for drug use, prone for robberies. They've had many shootings in that location. So I just wanted to find out what these two individuals were doing there.” Officer Sheppard asked the two males, “Hey guys, what are you doing over here, what's your reason for being over here? Do

you live here?" Both individuals stated that they did not live there so Officer Sheppard asked what their reason for being there was. § 87(2)(b) and his friend responded that they were waiting for a friend. Officer Sheppard then asked where their friend lived and § 87(2)(b) refused to tell him. Officer Sheppard explained to § 87(2)(b) that if he did not have a justifiable reason for being on the premises, then he was trespassing. Officer Sheppard also informed § 87(2)(b) that he could be issued a summons for that violation.

Officer Sheppard stated that § 87(2)(b) became irate. He became loud and boisterous, began to curse at Officer Sheppard and flailed his arms around. Officer Sheppard asked for § 87(2)(b)'s identification, which § 87(2)(b) refused to provide. Officer Sheppard stated that he raised his voice toward § 87(2)(b) because § 87(2)(b) was speaking loudly and Officer Sheppard was trying to gain control of the situation. At that point, an individual who § 87(2)(b) claimed was his friend, identified through the investigation as § 87(2)(b) exited an apartment building. Officer Sheppard's conversation with § 87(2)(b) lasted for approximately one minute before § 87(2)(b) exited the building. One of § 87(2)(b)'s friends advised § 87(2)(b) to calm down and give the officer his identification. § 87(2)(b) again refused and continued to curse.

§ 87(2)(b) began to walk away and Officer Sheppard followed approximately ten to fifteen feet behind him, continuing to ask for his identification. § 87(2)(b) proceeded to walk to the corner of § 87(2)(b), so Officer Sheppard went over his radio asking for an additional unit at his location because he had one male stopped. § 87(2)(b) began to walk across the street and Officer Sheppard stated that he dropped his radio by accident. After he picked up the radio, he noticed that § 87(2)(b) had started to run across § 87(2)(b).

Officer Sheppard ran after him and caught up to him when § 87(2)(b) was about twenty feet from the corner of § 87(2)(b). He grabbed § 87(2)(b)'s left arm and asked him for identification again. Officer Sheppard stated that § 87(2)(b)'s right arm then came across the front of his body and swung at Officer Sheppard. However, Officer Sheppard was unable to recall whether § 87(2)(b) had a closed fist. No contact was made as Officer Sheppard moved out of the path of § 87(2)(b)'s arm. Officer Sheppard struck § 87(2)(b) in his stomach area with his fist and was able to grab him and pull him down to the ground. § 87(2)(b) landed stomach first on the ground, and Officer Sheppard landed half on top of him with his stomach toward the ground. Officer Sheppard was able to get one handcuff on § 87(2)(b) after about five to ten seconds, but was unable to get his other wrist in the handcuff. Officer Sheppard noted that large groups of people were exiting their buildings to see what was happening. Officer Sheppard called for additional units over his radio and right before they arrived, Officer Sheppard was able to get the other handcuff on § 87(2)(b). Officer Sheppard stated that he was on top of § 87(2)(b) and straddling him to hold him on the ground. The officers assisted Officer Sheppard off the ground and also picked § 87(2)(b) up off the ground. Officer Sheppard could not recall which units responded. An officer asked Officer Sheppard if § 87(2)(b) had been searched and Officer Sheppard responded that he had not been searched yet, so an unidentified officer searched him. The officer informed Officer Sheppard that § 87(2)(b) did not have any contraband on him. Officer Sheppard stated that he walked over to where § 87(2)(b) was standing and escorted him into the van to be transported to the stationhouse. The van was a twelve-passenger van. Officer Sheppard stated that he did not hit § 87(2)(b)'s head against the outside of the prisoner van or witness any other officer do so. Officer Sheppard did not witness any other officer use any physical force toward § 87(2)(b). Officer Sheppard did not recall placing his hand on § 87(2)(b)'s neck.

After his struggle with § 87(2)(b) Officer Sheppard did not see any visible injuries on § 87(2)(b) and stated that § 87(2)(b) was not complaining of any injuries. Officer Sheppard stated that at the stationhouse, he asked § 87(2)(b) if he needed any medical attention and § 87(2)(b) stated that he did not. He added that at no point did the group of people in the area become involved. The investigator repeated the description § 87(2)(b) provided of a 40-year-old white male officer with white hair and dressed in plainclothes, but Officer Sheppard was unable to recall any officer who fit this description. § 87(2)(b) was charged with § 87(2)(a) 160.50. Officer Sheppard did not recall seeing § 87(2)(b)'s two friends after leaving the § 87(2)(b). Officer Sheppard stated that one more arrested individual was in the vehicle from another incident. Officer Sheppard stated that no one was

working Post 5 that night because they were short on manpower. Officer Sheppard had never interacted with § 87(2)(b) or the other individuals before. Officer Sheppard stated that when they were vouchering the property at the stationhouse, § 87(2)(b) did not have any identification on him.

***Lieutenant William Buchanan***

Lt. Buchanan's **memo book** [Encl. 6 a-c] indicated that at 8:00 PM, he "took over desk." At 10:00 PM, he resumed patrol.

**CCRB Statement**

*Lt. Buchanan is a 5'9" tall white male weighing 185 pounds with black hair and blue eyes. He was interviewed at the CCRB on December 12, 2008 at 10:04 AM [Encl. 6 d-e]. On March 24, 2008, was in uniform and worked from 2:50 PM until 11:47 PM. He was assigned to be patrol supervisor and did not recall with whom he was working. Lt. Buchanan stated that he was assigned a marked motor vehicle, but he did not recall the number.*

On March 24, 2008, at approximately 9:30 PM, Lt. Buchanan was assigned to the front desk at PSA 2. When shown a picture of § 87(2)(b) Lt. Buchanan did not recognize him. Lt. Buchanan did not recall hearing any radio calls put over for an incident in the vicinity of § 87(2)(b) or the § 87(2)(b) Lt. Buchanan also did not recall receiving any radio calls about an officer needing assistance.

The undersigned referenced the Sprint, which stated that the sergeant on patrol responded to the incident with § 87(2)(b) Lt. Buchanan stated that while he was on the desk, another sergeant would have been on patrol. Lt. Buchanan was shown the roll call, but was unable to determine which officer would have been the patrol sergeant for the two hours he was covering the desk.

***Officer Wojciech Lipinski***

Officer Lipinski's **memo book** [Encl. 7a-b] indicated that at 9:44 PM, he had an arrest on the corner of Lott Avenue and Stone Street in Brooklyn.

**CCRB Statement**

*Officer Lipinski is a 6'2" tall white male weighing 180 pounds with black hair and green eyes. He was interviewed at the CCRB on September 22, 2008 at 9:55 AM [Encl. 7 c-d]. On March 24, 2008, Officer Lipinski was in uniform and assigned foot post 6 from 8:00 PM until 4:35 AM. He was not working with any other officers.*

On March 24, 2008, at approximately 9:44 PM, Officer Lipinski had an arrest in the vicinity of Lott Avenue and Stone Street in Brooklyn. Officer Lipinski stated that he immediately returned to the precinct stationhouse with the individual to process his arrest. Officer Lipinski stated that he rode in the vehicle with the arrested individual to the stationhouse. Officer Lipinski remained at the stationhouse until the end of his tour. Officer Lipinski stated that he never responded to any other call after that. Officer Lipinski stated that he did not respond to the incident with Officer Sheppard.

***Officer Robert Beierle***

Officer Beierle did not have any **memo book** entries pertaining to the incident, as his end of tour was at 3:35 PM on that date.

**CCRB Statement**

*Officer Robert Beierle was interviewed at the CCRB on May 15, 2009, at 9:52 AM. Officer Beierle is a 5'10" tall white male, weighing 205 pounds, with brown hair and hazel eyes. On March 24, 2008, Officer Beierle was working in uniform from 7:00 AM until 3:35 PM. He was assigned to the burglary apprehension team. Officer Beierle stated that he was administrative that day, and was working inside the precinct. He was not assigned to a motor vehicle at any point on this date.*

On March 24, 2008, Officer Beierle's tour ended at 3:35 PM. He did not work overtime on this date and did not have any memo book entries after this time. Officer Beierle was shown a copy of the roll call for this date, which indicated that he worked from 5:30 PM until 2:05 AM. Officer Beierle did not recall a

change of tour on this date and referred to his memo book which indicated that he worked from 7:00 AM until 3:35 PM. Officer Beierle stated that he did not recall coming to hear of Officer Sheppard needing assistance from other officers on this date. Officer Beierle did not recognize § 87(2)(b) from a photograph. Officer Beierle also did not recall hearing about any incident where officers needed to respond to § 87(2)(b) on this date.

### **Police Documents**

The **Sprint** [Encl. 8a-d] indicated that On March 24, 2008, at 10:03 PM, there was an arrest by foot post 6 at § 87(2)(b) in Brooklyn. A call from foot post 6 requested additional units. At 10:04 PM, foot post 6 stated that the perpetrator at the location was under control. At 10:05 PM, a call stated that no further units were needed at location. Simultaneously, the sergeant on patrol arrived at the scene. At 10:05 PM, a call stated that there were no injuries and all members of service were accounted for. At 10:06 PM, foot post 4 and the lieutenant on patrol arrived at the scene. At 10:06 PM, there was one arrest by foot post 6.

The **Roll Call** [Encl. 9 a-b] for the 73rd Precinct tour 3 on March 24, 2008, indicated that Sergeant Buchanan was the patrol supervisor and was assigned vehicle 1628. Officer Lipinski and Officer Sheppard were assigned to Impact 6.

§ 87(2)(a) 160.50

§ 87(2)(a) 160.50

[§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

### **CCRB Histories**

Officer Sheppard, with one year of tenure, has had no substantiated CCRB allegations [Encl. 1]. § 87(2)(b) has case #§ 87(2)(b) open with the CCRB, and no prior complaints with the agency [Encl. 2].

## **Conclusions and Recommendations**

### **Officer Identification**

§ 87(2)(b) stated that he obtained Officer Sheppard's name by reading it from the nameplate on his uniform. When interviewed, Officer Sheppard acknowledged his participation in the incident. § 87(2)(b) was unable to describe the officers who were allegedly kicking and punching him because he was lying face down on the ground. § 87(2)(b) appeared for a photo viewing to determine which officer allegedly hit his head against the police van and used profanity towards him. He stated that he believed Officer Beierle may have been the officer to perform these allegations. When interviewed, Officer Beierle denied these allegations and stated that he did not leave the stationhouse that day. Officer Sheppard denied performing these actions and witnessing any other officer perform them. He was also unable to identify which other officers responded to the scene.

### **Undisputed Facts**

It is undisputed that Officer Sheppard questioned § 87(2)(b) and Officer Sheppard became involved in a loud argument. It is also undisputed that Officer Sheppard chased § 87(2)(b) and brought him to the ground in order to handcuff him.



## Disputed Facts

§ 87(2)(g)

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## Assessment of Evidence

There is no question that Officer Sheppard approached § 87(2)(b) in the courtyard of § 87(2)(b) to ask him his reasons for being there. The courtyard is public space freely accessible from the street. Officer Sheppard stated that he questioned § 87(2)(b) because it “looked like § 87(2)(b) and his friend] were hanging out and they didn’t really have any reason to be there.” § 87(2)(b) stated that when Officer Sheppard approached him, he was standing with his friend, “§ 87(2)(b) They were waiting on their friend, § 87(2)(b) who lives in the § 87(2)(b) § 87(2)(g)

§ 87(2)(b) stated that Officer Sheppard grabbed the back of his neck, pushed him against a wall and grabbed one arm and placed it in a handcuff. He added that Officer Sheppard then pushed him to the ground in order to place him in handcuffs and that multiple officers whom he could not see, possibly including Officer Sheppard, kicked and punched him. Officer Sheppard stated that he chased § 87(2)(b) and when he caught up to him, he grabbed § 87(2)(b)’s left arm in order to ask for his identification. Officer Sheppard stated that § 87(2)(b) then attempted to swing at him with his other hand. § 87(2)(b) did not make contact with Officer Sheppard but Officer Sheppard then punched § 87(2)(b) in his stomach. Officer Sheppard was able to grab § 87(2)(b) at this point and pull him down to the ground. § 87(2)(g)

§ 87(2)(b), § 87(2)(g)

§ 87(2)(b) alleged that officers kicked and punched him as he was handcuffed on the ground. § 87(2)(b), § 87(2)(g)

§ 87(2)(b) also alleged that an officer hit his head against a police vehicle and used profanity towards him. § 87(2)(b) appeared for a photo array, however, the officer he identified as a possible subject, Officer Beierle, was not present at the scene on the date of the incident. All of the officers who were interviewed denied engaging in or witnessing this alleged misconduct. § 87(2)(b) stated that it was an officer in plain clothes, but the Sprint did not indicate that a plain clothes unit responded. § 87(2)(g)

## Allegation A: Officer Stephen Sheppard questioned § 87(2)(b)

§ 87(2)(g)

According to The New York City Police Department’s Legal Bureau, an officer may approach an individual and ask questions when the officer has “an objective credible basis or ‘articulable reason.’”

Further, “This articulable reason is not necessarily a reason to believe that criminality is afoot, but simply a series of facts the officer can identify which provide a basis to approach the person and ask certain non-accusatory questions.” § 87(2)(g)

**Allegation B: Officer Stephen Sheppard used physical force against** § 87(2)(b)

§ 87(2)(g)

**Allegation C: Officers used physical force against** § 87(2)(b)

**Allegation D: An officer used physical force against** § 87(2)(b)

**Allegation E: An officer spoke obscenely and/or rudely to** § 87(2)(b)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: